

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION, AKRON

| | | |
|---------------|---|-----------------------|
| -----X | | |
| In re | : | CASE NO. 16-51100-AMK |
| | : | |
| MARLENE SMITH | : | CHAPTER 7 |
| | : | BANKRUPTCY JUDGE: |
| | : | ALAN M. KOSCHIK |
| Debtor | : | |
| -----X | | |

MOTION FOR TURNOVER OF PROPERTY OF THE ESTATE AND NOTICE

Now comes the Trustee, Harold A. Corzin (the "Trustee"), and pursuant to 11 U.S.C. §§ 348, 541, and 542 of the Fed. R. Bankr. P. hereby moves the Court for an Order directing and requiring the Debtor, Marlene Smith (the "Debtor") to turnover to the Chapter 7 Trustee the following, as being property of the bankruptcy estate, under 11 U.S.C. § 541, and 542:

- A. Non-exempt Surrender Value of life insurance from UNUM in the amount of \$2,709.36.

MEMORANDUM IN SUPPORT

1. On May 10, 2016, the Debtor filed with this Court a bankruptcy petition under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., and an Order for Relief was entered by this Court on said date. Harold A. Corzin is the duly appointed successor Chapter 7 Trustee of the within bankruptcy estate.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. Sections 157 and 1334. Venue is proper pursuant to 28 U.S.C. Sections 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. 157(b) (2).

Debtor's Duties and Turnover of Property

11 U.S.C. § 521(4), 542(a)

3. Section 521(4) of the Bankruptcy Code provides that a debtor shall-

(4) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate, whether or not immunity is granted under section 344 of this title; 11 U.S.C. § 521(4).
4. Section 542(a) of the Bankruptcy Code provides that- (a) Except as provided in subsection (c) or (d) of this section, an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

11 U.S.C. § 542(a).
5. The Trustee is requesting turnover of the non-exempt Surrender Value of life insurance from UNUM in the amount of \$2,709.36 (the "Cash Value). The Trustee's counsel has sent numerous requests to the Debtor's counsel for the Cash Value. The Debtor has failed to comply and provide the Cash Value to the Trustee despite numerous requests.

CONCLUSION

6. **WHEREFORE**, Trustee prays the Court for an Order directing the Debtor to turnover to the Chapter 7 Trustee the non-exempt Surrender Value of life insurance from UNUM in the amount of \$2,709.36 as being property of the bankruptcy estate under 11 U.S.C. § 541, without a hearing pursuant to 11 U.S.C. § 102(1)(b) (i) and Local Bankruptcy Rule 9013-1, unless a Response is filed or a hearing is requested within fourteen (14) days after service of this motion.

Respectfully submitted,

/s/ Robert B. Trattner

ROBERT B. TRATTNER

Registration No. 0062088

Thomas, Trattner & Malone, LLC

1653 Merriman Rd., Suite 203

Akron, Ohio 44313-5287

(330) 253-5738

Fax: 330-253-5743

E-mail: rtrattner@ttmlaw.com

Counsel for Harold A. Corzin, Trustee

NOTICE

Pursuant to LBR 9013-3 Notice is hereby given that any response or objection must be filed within fourteen (14) days, or such other time as specified by applicable Federal Rule of Bankruptcy Procedure or Statute or as the Court may order, from the date of service as set forth on the certificate of service, if relief sought is opposed, and that the Court is authorized to grant the relief requested without further notice unless a timely objection is filed.

NOTICE OF TRUSTEE'S MOTION FOR TURNOVER

Harold A. Corzin, the Chapter 7 Trustee, has filed papers with the Court seeking a turnover property of the Debtor, a copy of which is attached.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Parties in interest shall take notice that any party wishing to object to said motion has fourteen (14) days, or such other time fixed by the Federal Rules of Bankruptcy Procedure or statute or as the Court may order, after service is filed and serve a response or request for hearing. If no response or request for hearing is timely filed with the Court and served upon counsel for the movant, the Court may grant the relief requested in the motion without a hearing.

If you do not want the court to approve the Motion without holding a hearing, or if you want the court to consider your views on the Motion, then on or before **July 25, 2017**, you or your attorney must:

File with the court a written objection or response to:

**Clerk, United States Bankruptcy Court
2 South Main St.
Akron, Ohio 44308**

If you mail your Objection to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

You must also mail a copy to:

**Robert B. Trattner, Esq.
Thomas, Trattner & Malone, LLC
1653 Merriman Rd., Suite 203
Akron, Ohio 44313**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief without holding a hearing.

Date: July 10, 2017

Signature: /s/ ROBERT B. TRATTNER

Name: Robert B. Trattner

Attorney for Chapter 7 Trustee

CERTIFICATE OF SERVICE

I certify that on July 10, 2017, a copy of the foregoing Motion for Turnover was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

United States Trustee, at (Registered address)[@usdoj.gov](mailto:usdoj.gov)
Harold A. Corzin, Chapter 7 Trustee, at hcorzin@csu-law.com
Mona B. Rubinstein, Esq., on behalf of Debtor at
mona@bankruptcyhelpohio.com
Johna M. Bella, Esq., for Citizens Bank, N.A. at jbella@gpblaw.com
Nathan J. Kohler, Esq., for HSBC Bank USA, NA, at loubknotices@fenton-mcgarvey.com

And by regular U.S. mail, postage prepaid, on:

Marlene Smith
937 North Jefferson Street
Medina, Ohio 44256

/s/ ROBERT B. TRATTNER
Robert B. Trattner